

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8679 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ESSEN POLYMER PVT LTD

Versus

MANAVADAR MUNICIPAL BOROUGH

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Appearance:

MR HARIN P RAVAL for Petitioner

MR ANANT S DAVE for Respondent.

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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 06/02/97

ORAL JUDGEMENT

Rule. Mr.Anant S.Dave learned counsel waives service of notice of Rule on behalf of respondent.

At the request of learned advocates appearing for the parties, the petition is heard today.

By means of filing this petition under Art.226 of Constitution, the petitioner has prayed to issue an

appropriate writ, direction or order to quash and set aside order dt. July 12, 1996 passed by the President of the then Nagar Palika, Manavadar. By the impugned order, exemption which was granted to the petitioner from payment of octroi is withdrawn. The grievance made by the petitioner in the present petition is that though affidavit was filed by the respondent in the court of learned Civil Judge (J.D.), Manavadar in Regular Civil Suit No. 147 of 1993, principles of natural justice are not followed, nor sufficient opportunity was afforded to the petitioner to offer explanation to the grounds which are mentioned in the impugned order, and therefore, it should be set aside.

On the facts and in the circumstances of the case, I am of the view that sufficient opportunity of offering explanation was not afforded to the petitioner before rendering impugned decision. As principles of natural justice are violated, the impugned order is liable to be set aside.

For the foregoing reasons, the petition partly succeeds. The impugned order is set aside and quashed. The Chief Officer of Manavadar Municipal Borough shall issue fresh show cause notice mentioning all the grounds on which the exemption granted to the petitioner is sought to be withdrawn. The petitioner is hereby directed to offer explanation to the said notice within 10 (TEN) days from the date of receipt of the same. The Chief Officer shall render decision according to law and on merits within 15 (FIFTEEN) days from the date of receipt of the explanation from the petitioner. Rule is made absolute to the extent indicated hereinabove only with no order as to costs. Direct service is permitted.

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